

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

Index No.:  
Date Purchased:  
**SUMMONS**

-----X  
MICHELE LEMBECK and CRAIG ROER,

Plaintiffs,

Plaintiffs designate Suffolk  
County as the place of trial.

- against -

The basis of venue is:  
Plaintiffs' residence

HOME DEPOT U.S.A., INC.,

Defendant.

Plaintiffs reside at:  
22 Cameron Drive  
Huntington, New York 11743

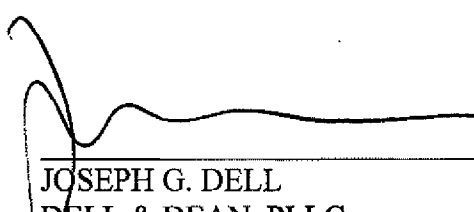
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County of SUFFOLK

**To the above named Defendant:**

**You are hereby summoned** to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Garden City, New York

8-6-20

  
\_\_\_\_\_  
JOSEPH G. DELL  
DELL & DEAN, PLLC  
Attorneys for Plaintiffs  
MICHELE LEMBECK and CRAIG ROER  
1225 Franklin Avenue, Suite 450  
Garden City, New York 11530  
(516) 880-9700

TO: HOME DEPOT U.S.A., INC. – *Via Secretary of State*  
c/o Corporation Service Company  
80 State Street  
Albany, New York 12207-2543

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

Index No.:  
Date Purchased:

-----X  
MICHELE LEMBECK and CRAIG ROER,

**VERIFIED COMPLAINT**

Plaintiffs,

- against -

HOME DEPOT U.S.A., INC.,

Defendant.  
-----X

Plaintiffs, by their attorneys **DELL & DEAN, PLLC**, complaining of the Defendant,  
respectfully allege, upon information and belief, as follows:

**AS AND FOR A FIRST CAUSE OF ACTION  
ON BEHALF OF MICHELE LEMBECK**

1. That at all times herein mentioned, Plaintiffs were, and still are, husband and wife and residents of the County of Suffolk, State of New York.
2. That at all times herein mentioned, the Defendant **HOME DEPOT U.S.A., INC.** was and still is a domestic corporation, a foreign corporation or other legal entity duly organized and existing under and by virtue of the laws of the State of New York.
3. That at all times herein mentioned, the Defendant **HOME DEPOT U.S.A., INC.** maintained a principal place of business in the County of Suffolk, State of New York.

4. That on August 18, 2017, and at all times herein mentioned, the premises located at 785 New York Avenue, Huntington, New York, State of New York was owned by Defendant **HOME DEPOT U.S.A., INC.**

5. That at all times herein mentioned, the Defendant **HOME DEPOT U.S.A., INC.**, through their agents, servants, employees, and/or assigns, owned, operated, managed, maintained, possessed, supervised, repaired, constructed, altered and controlled the premises, located at 785 New York Avenue, Huntington, County of Suffolk, State of New York.

6. That on August 18, 2017, and at all times herein mentioned, the above-mentioned premises was owned, operated, managed, maintained, possessed, supervised, repaired, constructed, altered and controlled by Defendant **HOME DEPOT U.S.A., INC.**

7. That on August 18, 2017, and at all times herein mentioned, it was the duty of Defendant **HOME DEPOT U.S.A., INC.** to own, operate, manage, maintain, repair, control, inspect, construct and supervise the premises located at 785 New York Avenue, Huntington, in the County of Suffolk, State of New York, in a reasonably safe condition.

8. That at all times herein mentioned, Defendant **HOME DEPOT U.S.A., INC.** had a non-delegable duty to maintain the premises in a reasonably safe condition and free of dangers and hazards to those pedestrians lawfully thereat, including Plaintiff **MICHELE LEMBECK**.

9. That on August 18, 2017, Plaintiff **MICHELE LEMBECK** was a lawful pedestrian at the above-mentioned location.

10. That on August 18, 2017, while Plaintiff **MICHELE LEMBECK** was lawfully at the aforesaid location, she was caused to sustain severe and permanent injuries.

11. The above mentioned occurrence, and the results thereof, was caused wholly and solely by the negligence and breach of duty of the Defendant **HOME DEPOT U.S.A., INC.** and/or said Defendant's servants, agents, employees and/or licensees in the ownership, inspection, construction, repair, operation, management, maintenance and control of the aforesaid premises, fixtures and appurtenances; and the Defendant **HOME DEPOT U.S.A., INC.** was otherwise negligent, careless and reckless.

12. That, upon information and belief, Defendant **HOME DEPOT U.S.A., INC.** had actual notice of this defective condition in that this Defendant created the condition and was present on a daily basis prior to the underlying accident.

13. That no negligence on the part of the Plaintiff **MICHELE LEMBECK** contributed to the occurrence alleged herein in any manner whatsoever.

14. That as a result of the foregoing, Plaintiff **MICHELE LEMBECK** was caused to sustain serious injuries and to have suffered pain, shock, mental anguish; that these injuries and their effects will be permanent; and as a result of said injuries, Plaintiff **MICHELE LEMBECK** has been caused to incur, and will continue to incur, expenses for medical care and attention; and, as a further result, Plaintiff **MICHELE LEMBECK** was, and will continue to be, rendered unable to perform Plaintiff's normal activities and duties and has sustained a resultant loss therefrom.

15. By reason of the foregoing, Plaintiff **MICHELE LEMBECK** has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction herein.

**AS AND FOR A SECOND CAUSE OF ACTION  
ON BEHALF OF CRAIG ROER**

16. Plaintiff **CRAIG ROER** realleges, repeats and reiterates paragraphs "1" through "15" as though more fully set forth at length herein.

17. That at all times hereinafter mentioned, Plaintiff **CRAIG ROER** was the spouse of the Plaintiff **MICHELE LEMBECK** and as such was entitled to the society, services and consortium of his spouse **MICHELE LEMBECK**.

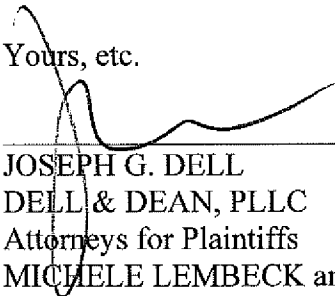
18. That by reason of the foregoing, Plaintiff **CRAIG ROER** was deprived of the society, services and consortium of the Plaintiff **MICHELE LEMBECK** and shall forever be deprived of said society, services and consortium.

19. That by reason of the foregoing, Plaintiff **CRAIG ROER** was damaged in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction herein.

**WHEREFORE**, Plaintiffs **MICHELE LEMBECK** and **CRAIG ROER** pray for judgment against the Defendant **HOME DEPOT U.S.A., INC.** on behalf of the within Causes of Action in amounts which exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction herein, together with the costs and disbursements of this action.

Dated: Garden City, New York  
8-6-20

Yours, etc.



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JOSEPH G. DELL  
DELL & DEAN, PLLC  
Attorneys for Plaintiffs  
MICHELE LEMBECK and CRAIG ROER  
1225 Franklin Avenue, Suite 450  
Garden City, New York 11530  
(516) 880-9700

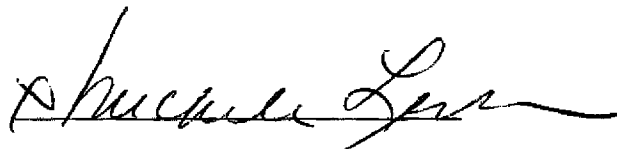
## VERIFICATION

STATE OF NEW YORK     )  
                                  )ss.:  
COUNTY OF *Nassau*     )

I, *Michele Lembeck*, being duly sworn, deposes and says:

I am the plaintiff in the within action;

I have read the following SUMMONS AND VERIFIED COMPLAINT and believe the same is to be true to my knowledge; the same is true to my knowledge except as to those matters therein stated to be alleged on information and belief and as to those matters I believe them to be true.



Sworn to before me this *5<sup>th</sup>*  
Day of *August*, 2020

*Donna M. Parent*

DONNA M. PARENT NOTARY PUBLIC, STATE OF NEW YORK Registration No. 01CO5008225 Qualified in Suffolk County Commission Expires February 16, 2023
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Index No:

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK**

MICHELE LEMBECK and CRAIG ROER,

*Plaintiffs,*

*-against-*

HOME DEPOT U.S.A., INC.,

*Defendant.*

**SUMMONS AND VERIFIED COMPLAINT**

**DELL & DEAN, PLLC**  
*Attorneys for Plaintiff*  
1225 Franklin Avenue, Suite 450  
Garden City, New York 11530  
(516) 880-9700

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-A.

Dated: 8/6/20

Signature.....  
Print : JOSEPH G. DELL

**PLEASE TAKE NOTICE**

That the within is a (certified) true copy of an  
**NOTICE OF** Entered in the office of the clerk of the within-named Court on  
**Entry**

That an Order of which is a true copy will be presented for settlement to the  
**NOTICE OF** Hon. , one of the judges of the  
within-named Court,  
**SETTLEMENT** at  
on 20 , at

M.

Dated:

**DELL & DEAN, PLLC**  
*Attorneys for Plaintiff*  
1225 Franklin Avenue, Suite 450  
Garden City, New York 11530  
(516) 880-9700